

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

DEC 16 2011

JULIA C. DUDLEY, CLERK

BY:

DEPUTY CLERK

UNITED STATES OF AMERICA,

) CASE NO. 5:04CR00015

) (CASE NO. 5:11CV80375)

vs.

) FINAL ORDER

RICKEY A. MERICA,

) By: Glen E. Conrad

) Chief United States District Judge

Defendant.

In accordance with the accompanying memorandum opinion, it is hereby

ADJUDGED AND ORDERED

that the defendant's motion (ECF No. 229), is hereby **DENIED** as a motion under Fed. R. Civ. P. 60(d); is **CONSTRUED** as a motion to vacate, set aside or correct the sentence, pursuant to 28 U.S.C. § 2255, and **DISMISSED** as successive; and this action is stricken from the active docket of the court. Based upon the court's finding that the defendant has not made the requisite showing of denial of a substantial right, a certificate of appealability is **DENIED**.

ENTER: This 15th day of December, 2011.

Glen Conrad

Chief United States District Judge